



# COUNTY OF LOS ANGELES

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RAYMOND G. FORTNER, JR.  
County Counsel

June 23, 2006

TO: SUPERVISOR MICHAEL D. ANTONOVICH, Mayor  
SUPERVISOR GLORIA MOLINA  
SUPERVISOR YVONNE B. BURKE  
SUPERVISOR ZEV YAROSLAVSKY  
SUPERVISOR DON KNABE

FROM: RAYMOND G. FORTNER, JR.  
County Counsel

RE: **Litigation Cost Manager's Annual Report on Cost Reduction  
Measures for 2006-07 (Monday, June 26, 2006, Budget  
Deliberations)**

Enclosed is the report by the County Counsel Litigation Cost Manager in response to your Board's order for an annual report regarding legal cost savings measures.

In his report, the Litigation Cost Manager discusses several measures to continue our management of litigation and achieve reductions in indemnity payments and legal fees and costs. As explained in his report, some measurements will begin to provide reliable identifiable results only after the data is captured for three full fiscal years.

The Office of the County Counsel remains committed to assisting in the timely and accurate assembling of all relevant data so that the measures described in this report will be reliable and meaningful, all in furtherance of the goal of reducing litigation costs to the County.

If you have questions concerning this matter, please contact me, Chief Deputy County Counsel Donovan M. Main at (213) 974-1804, or Litigation Cost Manager Robert E. Nagle at (213) 974-1822.

RGF:jb

Enclosure

c: David E. Janssen, Chief Administrative Officer

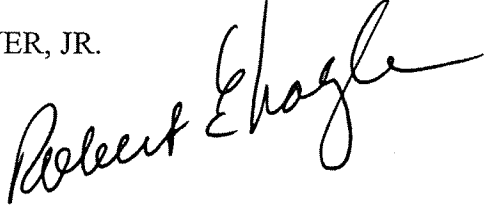
Sachi A. Hamai, Executive Officer, Board of Supervisors

EXEC.4025.1

# MEMORANDUM

June 23, 2006

TO: RAYMOND G. FORTNER, JR.  
County Counsel

FROM: ROBERT E. NAGLE   
Litigation Cost Manager

RE: **Litigation Cost Manager's Annual Report**

This memorandum is to respond to the Board of Supervisors' request for measures implemented by the Litigation Cost Manager and County Counsel for fiscal year 2006/2007 to continue to reduce the costs of litigation for the County. Under separate cover and subject to the attorney-client and attorney work product privilege, I have provided to the Board a detailed report of litigation results obtained for the Third Quarter of FY 2005/2006.

## I. LITIGATION RESULTS FY 2005-2006

Litigation results for the first three quarters of FY 2005-2006 are generally tracking last year's results, although with a slight increase in the amount paid out in judgments and settlements. For the first three quarters of FY 2005-2006 the County has paid \$27,229,962 (see attached Exhibit A). An additional \$5,639,869 has been paid out so far in the fourth quarter of FY 2005-2006 (which will not be over until June 30, 2006, with payment of billings continuing through July 30, 2006). Total judgments and settlements paid so far for FY 2005-2006 total \$32,869,831. Outside fees and costs paid out through the first three quarters of FY 2005-2006 are \$25,301,584.

The results through three quarters of FY 2005-2006 generally communicate the following concepts:

- (1) County Counsel obtains more dismissals of lawsuits than it settles;
- (2) County Counsel is generally successful when taking cases to trial;
- (3) County Counsel is generally successful when taking cases up on appeal;
- (4) County Counsel is generally successful in representing the Departments before Civil Service Hearings;

- (5) County Counsel has made great improvements in holding down outside legal fees and costs;
- (6) County Counsel generally has held down settlements when viewed over the past five years; and
- (7) County Counsel has been effective in generating revenue through litigation for the County.

## II. SIMPLE ANALYSIS OF LIMITED DATA

Sufficient data does not yet exist to complete an analysis of results by an individual attorney or law firm. However, I believe it is important to give the Board an indication of what will be possible once sufficient data has been collected. I have analyzed a summary of trials involving County-involved vehicle accidents and excessive force cases involving the Sheriff's Department.

In the last three years the County has gone to trial on nine cases involving County involved vehicle accidents. In almost all the cases, the ultimate verdict at trial was far less than plaintiff's demands. The **average fees** paid to attorneys for these nine cases was \$13,907; the **average costs** incurred from experts, depositions, etc., was \$7,453; the **average amount paid** on these cases was \$69,000, and each case **averaged** 25 months from receipt of the lawsuit until verdict at trial.

The County has gone to trial on 14 excessive force cases involving the Sheriff's Department, with 11 cases involving defense verdicts, and three adverse verdicts of \$37,500, \$301,500 and a \$3.2 million verdict that are being appealed. The **average fees** paid to attorneys in these fourteen cases was \$119,007; the **average costs** incurred from experts, depositions, etc., were \$45,299 and each case **averaged** 33 months from receipt of the lawsuit until verdict at trial. Calculating the average indemnity (verdict) paid on this type of case does not have much meaning. Allegations of civil rights abuse vary significantly from case to case and is dependent upon whether a deputy sheriff has been disciplined or who the plaintiff's attorney is. A few plaintiff's counsel expend large sums of fees working up the case hoping for a large award of attorney's fees in the event of a minimal award in favor of the plaintiff.

The value of calculating averages in these categories is to provide a base-line tool to evaluate the general performance of outside counsel and the efficiency and cost-effectiveness of how they manage their cases. The more an

individual case exceeds these “average” costs the more attention the monitoring attorney should pay to monitor the case. In the event that all of these same type cases for an individual law firm routinely exceed these “average” costs, the monitoring attorney can meet with the firm and discuss areas where cost control measures might be productive (reduce the number of depositions, not summarize depositions until sure the case is going to trial, etc.).

### **III. IMPLEMENTATION OF MARCH 23, 2006 LITIGATION MANAGEMENT PROCEDURES**

On March 23, 2006, Litigation Management policies and procedures were distributed to the Management Team of County Counsel that incorporated many of the revisions that had been created by the Litigation Cost Manager over the past two years that had led to the noticeable improvement in litigation results (attached hereto as Exhibit B). There has been demonstrable improvement in the scheduling of roundtables and the reporting of litigation results.

I believe the Office of the County Counsel is bringing closure on the first year of the training process and implementation of the revised litigation management policies and procedures and that so long as emphasis remains on these procedures and policies, the office will be able to continue to achieve significant improvement in litigation results.

### **IV. CLAIMS HANDLING**

County Counsel has been handling the government claims process in close association with Department Risk Manager Coordinators and advising the CAO Risk Manager of receipt of new claims for at least the past three years. We are currently evaluating what entity (Department, Contract City, Insurer) should be assigned as the primary funding source for the expenses of litigation.

### **V. ROUNDTABLES**

The County has obtained success in taking cases to trial through increased utilization of the "Roundtable" process. Successful outcomes will always be driven by an accurate assessment of the facts. The roundtable process is an essential element, which brings together through the direction of the Office of County Counsel, those individuals in the Department most familiar with the facts of the case, outside counsel, County Counsel and risk management in order to fully discover and analyze any adverse facts related to the litigation. The determination to settle a case or take it to trial can only be made once most of the

critical facts have been uncovered and analyzed by County Counsel. The earlier a case is roundtabled, the earlier County Counsel can take advantage and assure of being ahead of the curve to make an objective determination and assessment of the case value and economically dispose of the case or determine that the case should be tried.

The more cases taken to trial by County Counsel with positive results (a defense verdict, dismissal prior to verdict or a judgment against the County less than the amount authorized for settlement) will have a significant and beneficial effect on the ultimate value of cases settled by the County. The Office of County Counsel is committed to the roundtable process and for FY 2005/2006 has expanded the roundtable process to all divisions within County Counsel, and to move toward scheduling earlier roundtables for cases involving attorney fees and costs anticipated to be in excess of \$100,000.

The County's legal data base was transferred into the RMIS system effective March 1, 2003. The converted data into the system is being reviewed and cleaned up for all cases that were open as of March 1, 2003. I have issued regular quarterly reports to the Board of Supervisors since December 2003 detailing the results of the efforts of the Office of County Counsel in litigation management, with significant reductions in fees and costs paid to Outside Counsel, reduction in amounts paid out in Judgments and Settlements and the documentation of significant recoveries for the County as a result of the efforts of County Counsel through litigation.

All of my efforts and those of County Counsel will be dedicated during FY2006/2007 to continue the reduction of both Judgments and Settlements to be paid out by the County, the reduction of legal fees and expenses incurred by the County and the maximization of recoveries on behalf of the County.

If you need further clarification regarding any item contained in this memorandum, please contact me. The litigation management techniques described above have proven to be very effective in the reduction of litigation costs in my prior years in private industry.

If you have questions concerning this matter, please contact me, Litigation Cost Manager Robert E. Nagle, at (213) 974-1822.

REN

# EXHIBIT A

CONFIDENTIAL: ATTORNEY-CLIENT ATTORNEY WORK PRODUCT PRIVILEGED

EXHIBIT B

LEGAL FEES, COSTS, SETTLEMENTS, JUDGMENTS AND RECOVERIES PAID ON LITIGATED CASES\*\*  
FY 2000 - 2006

CONTRACT LAW FIRMS	2000 - 2001 <sup>1</sup>	2001 - 2002 <sup>1</sup>	2002 - 2003 <sup>1</sup>	2003 - 2004	2004 - 2005	2005-2006 (Through Three Quarters)	2005-2006 (Through Four Quarters)
Fees & Costs (RMIS) through 2003-2004; Fees only 2004-2006	\$42,213,781	\$44,815,630	\$51,086,941	\$37,800,450	\$32,373,114	\$22,173,859	
Costs					\$4,827,254	\$3,127,725	
Audited Fees & Costs from County Counsel & TPA Records	\$45,370,412	\$46,071,996					
TOTAL FEES & COSTS CONTRACT LAW FIRMS	\$45,370,412	\$46,071,996	\$51,086,941	\$37,800,450	\$37,200,368	\$25,301,584	
IN-HOUSE FEES				\$9,389,377	\$8,914,448		
IN-HOUSE COSTS					\$1,685,651		
TOTAL FEES & COSTS IN-HOUSE			\$9,389,377	\$9,389,377	\$10,600,099		
JUDGMENTS, SETTLEMENTS & RECOVERIES							
Judgments & Settlements (RMIS)	\$58,343,405	\$62,723,319	\$57,442,032	\$26,326,925	\$27,102,278	\$27,229,962	\$32,869,831 (incomplete)
Audited Judgments and Settlements from County Counsel & TPA Records	\$58,767,817	\$59,928,019					
RECOVERIES RECEIVED				\$32,260,934 <sup>2</sup>	\$10,071,062 <sup>3</sup>	\$6,823,227	\$6,839,139 (incomplete)

<sup>1</sup> The RMIS figures for 2000-2003 include in-house costs, which were historically reported under another grouping in the old systems. In-house costs for 2000-2001 were \$4,253,779 and for 2001-2002 were \$3,283,414.

<sup>2</sup> Recoveries include \$11,534,757 So. Calif. Gas; \$18,000,000 Consolidated Fire District ERAF calculation (which will continue through 2011); condemnation defense cases generated additional recoveries of \$2,476,177; (\$7,750,000 [Allianz] - not included in the recovery number for FY 2003/2004 - per instructions from CAO to be credited to FY 2004/2005).

<sup>3</sup> \$1,722,000 recovered from Burlington Northern v. COLA; \$1,000,000 recovered from COLA v. Judicial Council (which will continue annually from 2005 forward); \$7,500,000 recovered from COLA v. Allianz litigation; \$18,000,000 Consolidated Fire District ERAF calculation not included.

